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7 *Attorneys for the United States*

8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10  
11 **UNITED STATES OF AMERICA,** ) **2:12-cr-00114-JCM-VCF**  
12 **Plaintiff,** )  
13 **vs.** )  
14 **BEN KIM,** ) **UNOPPOSED MOTION TO**  
15 ) **CONTINUE SENTENCING**  
16 **Defendant.** )  
17 \_\_\_\_\_ )

18 **COMES NOW**, the United States of America, by and through Kathleen McGovern,  
19 Senior Deputy Chief, Charles La Bella, Deputy Chief, and Mary Ann McCarthy, Trial Attorney,  
20 U.S. Department of Justice, Criminal Division, Fraud Section, and moves to continue the  
21 Sentencing Hearing in the above-captioned matter currently scheduled for October 24, 2012 at  
22 10:00am. The Government requests this continuance because the attorneys have scheduling  
23 conflicts and will be attending to matters in other jurisdictions. The Government also seeks  
24 additional time to properly debrief the defendant prior to his sentencing. The parties respectfully  
25 request this Honorable Court continue the Sentencing Hearing for 30-60 days to allow time for the  
26 Government attorneys to travel to Las Vegas to debrief and sentence the defendant.

1 This is the first request for a continuance of the Sentencing date.

2 Pursuant to General Order No. 2007-04, this Stipulation is entered into for the following  
3 reasons:

4 1. First, the government attorneys are currently scheduled to be in other jurisdictions  
5 on the date of the scheduled sentencing hearing and respectfully request a delay to allow an  
6 attorney to be present at the time of the hearing.

7 2. Second, in paragraph 29 of his Plea Agreement, the defendant agreed to cooperate  
8 at the request of the United States in any investigation regarding persons or matters of which the  
9 defendant has knowledge. The defendant had relationships with persons who are currently under  
10 investigation for their involvement in a fraudulent scheme to control homeowners associations in  
11 the Las Vegas area. The government requests additional time to allow the attorneys to travel to  
12 Las Vegas to properly debrief the defendant regarding his knowledge of these persons and matters  
13 prior to his sentencing.

14 3. The defendant's Plea Agreement affords the defendant potential consideration for a  
15 downward departure at the time of sentencing if the defendant has provided substantial assistance  
16 to the United States, including the possibility of a United States Sentencing Guideline (U.S.S.G.) §  
17 5K1.1 Motion.

18 4. Counsel for the United States has spoken with counsel for the defendant and he has  
19 agreed that the requested continuance is in the interest of justice and does not oppose the  
20 continuance sought herein. The defendant is not in custody and will remain at liberty on his  
21 personal recognizance.

22 5. Denial of this request for continuance would deny the parties sufficient time and  
23 opportunity to develop the defendant's cooperation against the related co-conspirators and targets  
24 and prepare related cases for prosecution.

25 6. Furthermore, denial of this request for continuance could result in a miscarriage of  
26 justice.

1           **DATED** this \_17\_ day of October, 2012.

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3                           DENIS J. McINERNEY  
4                           Chief  
5                           United States Department of Justice,  
6                           Criminal Division, Fraud Section

7   //s//

8   \_\_\_\_\_  
9                           KATHLEEN McGOVERN  
10                          Senior Deputy Chief  
11                          CHARLES LA BELLA  
12                          Deputy Chief  
13                          MARY ANN McCARTHY  
14                          Trial Attorney  
15                          United States Department of Justice  
16                          Criminal Division, Fraud Section  
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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>2:12-cr-00114-JCM-VCF</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	<b>PROPOSED</b>
<b>BEN KIM,</b>	)	<b>ORDER - UNOPPOSED</b>
	)	<b>MOTION TO</b>
	)	<b>CONTINUE SENTENCING</b>
<b>Defendant.</b>	)	

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**FINDINGS OF FACT**

Based on the Government's pending Unopposed Motion to Continue Sentencing, and good cause appearing therefore, the Court hereby finds that:

1. The parties are in agreement to continue the Sentencing date as presently scheduled.
2. This Court is convinced that an adequate showing has been made that to deny this request for continuance, taking into account the exercise of due diligence, would deny the United States sufficient time to be able to effectively debrief the defendant and would bar the defendant from the opportunity to cooperate and potentially receive a downward departure at the time of sentencing. This decision is based on the following findings:

- a. The defendant agreed in his plea agreement to cooperate at the request of the United States against persons or in matters in which he has knowledge.
- b. The United States agreed to consider a downward sentencing concession for the defendant's cooperation, including a possible U.S.S.G. 5K1.1 Motion if substantial assistance resulted from such cooperation.
- c. In addition, the government attorneys have scheduling conflicts and are not able to travel to Las Vegas for the currently scheduled sentencing hearing.
- d. The defendant does not object to the continuance.

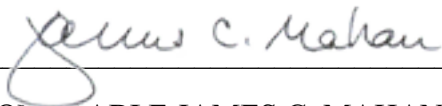
1 e. The defendant is out of custody.

2 3. For all the above-stated reasons, the ends of justice would be served by  
3 continuing the Sentencing date.

4 **ORDER**

5 **IT IS THEREFORE ORDERED** that the Sentencing date currently set for October 24,  
6 2012 at 10:00am, is vacated and the same is continued until **12-3-2012 at 10:00 a.m.**

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9 **DATED** October 18, 2012.

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14 HONORABLE JAMES C. MAHAN  
15 UNITED STATES DISTRICT JUDGE  
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